

UNITED STATES DISTRICT COURT - DISTRICT OF NEW HAMPSHIRE

ANDRE BISASOR, Plaintiff,

v.

CRAIG S. DONAIS; RUSSELL F. HILLIARD; DONAIS LAW OFFICES, PLLC; UPTON & HATFIELD, LLP; and MARY K. DONAIS, Defendants.

Case No.1:23-cv-00374-JL

**NOTICE OF PLAINTIFF'S REFUSAL TO CONSENT TO PROCEED BEFORE
MAGISTRATE JUDGE AND PREFERENCE FOR MOTIONS TO BE HEARD BY THE
ASSIGNED DISTRICT COURT JUDGE**

1. In accordance with Fed. R. Civ. P. 73, 28 U.S.C. § 636(c), and Local Rule 73.1(b)(2), I the plaintiff advise the court that I do not consent to the Magistrate Judge's jurisdiction or to referral of every motion filed in this case to the magistrate judge for ruling.

2. The local rules state:

73.1 Assignment of Cases to Magistrate Judge

(a) Designated Jurisdiction. The judges of this district designate the magistrate judge to conduct all proceedings in any civil matter upon the consent of the parties.

(b) Methods of Assignment.

(1) Reassignment Following Request of Parties. Parties may consent to the reassignment of a case to a magistrate judge by filing a Notice, Consent, and Order of Reference form stating that the parties consent to the reassignment. This form should not be returned to the clerk of court unless all parties consent to the reassignment. **The clerk shall notify the parties in all cases that they may consent to have the magistrate judge conduct all proceedings in any civil matter.**

(2) Initial Assignment by the Clerk. The chief judge may authorize the clerk to randomly assign cases to the magistrate judge for all purposes, including trial, entry of final judgment, and all post-judgment proceedings.

(A) Notification of Initial Assignment. **The clerk shall inform the parties of the initial assignment by issuing a notice of assignment and consent form.**

(B) Consent. A case initially assigned to the magistrate judge pursuant to this subsection shall be reassigned to a district judge unless all parties consent to the assignment. A designated party shall file either a consent or declination of consent on a form provided by the clerk in the manner and within the time frame specified in the clerk's notice.

3. I would like to exercise my right to object to proceeding with the magistrate judge.

4. This case was initially assigned to Judge Joesph LaPlante. There is no docket entry of assignment of a magistrate judge in this case. Also, I have not received any **Notice of Assignment to United**

States Magistrate Judge and Consent Form. I did not see any docket entry regarding notice about giving consent to proceed with a magistrate judge, nor did I receive any information about consent to proceed with a magistrate judge in this case.

5. The case appears to have been assigned to a magistrate judge at some point whether informally or otherwise, and is being treated as if it was initially assigned to a magistrate judge, when in fact it was instead first assigned to a district court judge and then reassigned to a magistrate judge at some point, without any notice to the parties as appears to be required by the rules, and I was not given a chance to consent to proceeding with a magistrate judge.
6. Similarly, if the case never assigned to a magistrate judge, I was still never notified or informed, as required by the rules, that I had a choice whether or not to proceed with a magistrate judge as assigned or reassigned, or conversely, if the case was never assigned to a magistrate judge but simply referred to one, that I had s choice whether to consent or request that it be reassigned to a magistrate judge as required by the rules. By the court failing to follow these rules, I was left in the dark as to whether the case was assigned or reassigned to a magistrate judge or not. This prejudiced my rights and my understanding of my rights, including not only whether I could not consent to such, but as to what procedures of objection, reconsideration or appeal were applicable, which I previously tried to ask for clarification from the clerk's office but to no avail. This confusion is further seen in my prior filings where I asked the court to clarify what timelines apply to reply to an objection because the rules provide one set of instructions for when a case is assigned to a magistrate judge versus when it is not so assigned.
7. When I recently asked the clerk's office about this issue, I was informed that no consent is needed here and no notice is required, while leaving it vague or ambiguous as to whether the case was in fact assigned to magistrate judge. When I further inquired, I was eventually told that the case is not assigned to a magistrate judge.

8. I then asked *“If the case is not assigned to a magistrate judge, why is every motion, whether non-dispositive or dispositive, is being ruled on by the magistrate judge? In fact there has been no ruling issued by the district court judge except for at the very beginning in July, to allow pro se e-filing.”* I have not received any reply.
9. This further raises concern about whether the rules are being adhered to and whether there was an error by the clerk in not informing the parties that they had a choice.
10. In other words, the following did not occur: **The clerk shall inform the parties of the initial assignment by issuing a notice of assignment and consent form.**
11. No consent form was issued to even alert the parties that they had a choice of how to proceed.
12. The attached non consent form located on the court’s forms page states that there is a timeline to file this form and it appears that today is that deadline. The attached form further states: **“While consent is voluntary, submission of this form indicating whether the parties consent to the Magistrate Judge's jurisdiction is mandatory.”**
13. At no time did the court or the clerk office notify me that submission of this form is required.
14. I am concerned that the above situation, if I am not provided an opportunity to not consent, will harm and prejudice me and cause me to forfeit my rights.
15. Hence, in the abundance of caution, I am filing this notice and the attached signed non-consent form.
16. I assume that my reasons for filing this notice are not required to be stated and that I will not be prejudiced by making filing.
17. I also assume that the case will not continue to be treated as though the magistrate judge is assigned to rule on every motion or issue in this case. The bottom line is that by this notice and attached signed nonconsent form I am providing notice that I do not want my motions to be ruled on by the magistrate judge but instead by the assigned district court judge. If the magistrate judge will

continue to rule on my motions in this case, then I would like to know so that I may file a formal motion to recuse.

18. In other words, if this notice of non-consent is insufficient, then I intend to file a motion to recuse the magistrate judge if necessary, but I prefer not to have to file a motion to recuse because I do not want that to result in any actual or potential alienation with the court.
19. [NB: I am concerned that the magistrate judge has portrayed a bent mind against me and this case and that I will be unable to obtain a fair hearing with the magistrate judge. I believe the magistrate judge has displayed bias in this case so far. This is a nuanced point, in that it will require some teasing out, but I do have reasonable grounds for that concern. However, I am hesitant to offer any criticism of the magistrate judge at this juncture because I have respect for the magistrate judge and I am concern that any criticism could be construed as disrespect towards the magistrate judge. Moreover, I do not want to create any further bias or impulse to hurt or retaliate because of such criticism. I trust I am making sense. So, I hope that my filing a non-consent form is sufficient to have the case back referred to the district court judge assigned to the case. But if it is not sufficient to have the motion referred back to the district court judge, then I feel I will have no but to file a motion to recuse detailing the grounds for recusal. The bottom line is that I do not want to proceed with the magistrate judge in this case and prefer that this motion be ruled on by the district court assigned to the case. I do not want this motion or any other motion that I file to be not to be treated seriously or for it to be scoffed at, or to be chided simply because I exercise my right to petition the court or to reasonably request relief from the court. I do not want my motives to be unwarrantedly questioned or for mischaracterizations of my pleadings to be used in an unfair way to chide me (for example, the magistrate judge in a recent ruling on 11/17/23 misstated or misconstrued my words and asserted that I said that “I could not learn the court rules in 2 days”, when I never said any such thing). I simply want a level playing field and to be

meaningfully heard and to be treated with respect and dignity as a human being, and as an African-American, despite having little or no resources, connections or insider privileges and despite being an outsider to this state (all of which are traditionally recognized as creating disadvantages in the court system). I simply do not want to have the defendants' rights or perspective to be placed above mine or prioritized as more important than mine. I do not want to be treated harshly or as lesser or as inferior because I am pro se and because I did not get to go to law school. I do not want my pleadings to be construed against me or to be construed in a light least favorable to me or for my words to be misstated or twisted around against me. I do not want to be treated with unnecessary skepticism or disdain, or for reasonable benefit of the doubt to not be reasonably afforded to me. I simply want a fair judge, with no penchant or predetermination for the defendants able only able to see through the eyes of the defendants or only able to put themselves in the shoes of the defendants, but I want a judge who can also fairly and conscientiously put themselves in my shoes as an indigent pro se nonlawyer who is an older citizen and has certain ongoing health challenges and other challenges that befuddle those who do not make a living practicing law i.e. regular people who are not lawyers. I want an equal playing field and I do not want my feet held to the fire on certain things while the defendants are given a free pass on said things, with a relaxed standard for the defendants but a tight stringent standard placed upon me and where I am chided for everything but nothing is ever said to the defendants about their conduct or not adhering to the rules, etc. Please note that this is a parenthetical note as to why I am filing a notice of non-consent to proceed with the magistrate judge and why I would like to proceed with the district court judge. I do not expect any attempt to respond to this point here because I have not fleshed out the facts and arguments pertaining to that and would need time to do so in a proper motion to recuse. My key point here is that I am objecting to proceeding with the magistrate judge and that I request that my motions going forward be ruled upon by the district

court judge. I also intend to file motions for reconsideration or objections to the magistrate judge's rulings on 11/8/23 and 11/17/23, which I would like the district court judge to rule on.].

20. Please take note of this notice.

Respectfully submitted,

/s/ Andre Bisasor

Andre Bisasor

679 Washington Street, Suite # 8-206

Attleboro, MA 02703

T: 781-492-5675

Email: quickquantum@aol.com

November 20, 2023

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served to the defendants in this case.

/s/ Andre Bisasor

Andre Bisasor

679 Washington Street, Suite # 8-206

Attleboro, MA 02703

T: 781-492-5675

Andre Bisasor

Plaintiff

v.

Case No.1:23-cv-00374-JL
Civ. No. _____

Craig Donais, et. al

Defendant

**NOTICE OF ASSIGNMENT TO UNITED STATES
MAGISTRATE JUDGE AND CONSENT FORM**

**NOTICE: PLAINTIFF(S) FILING A NEW CIVIL CASE--AND PLAINTIFF(S) IN A REMOVAL CASE HAVING
DEFENDANT(S) WHO STILL MUST BE SERVED--SHALL SERVE THIS NOTICE WITH THE COMPLAINT ON THE
DEFENDANT(S)**

This civil case has been randomly assigned to United States Magistrate Judge Johnstone for all purposes including trial, entry of final judgment, and any post-judgment proceedings. A Magistrate Judge is permitted to exercise this jurisdiction only if all parties consent. Note that a party may refuse to consent without any adverse substantive consequences.

One party (hereafter the "Filing Party") is responsible to consult with all parties and to electronically file this form with the court advising either that all parties consent to the Magistrate Judge's jurisdiction or that consent is not unanimous. The Filing Party shall submit this consent form as follows: (1) the plaintiff, or the removing defendant if the case was initiated by a Notice of Removal, shall consult with the parties and file this form on or before the deadline for filing the discovery plan (or on or before the deadline for filing the administrative record in an ERISA or IDEA case) unless a defendant files a Rule 12(b) motion, (2) if any defendant files a Fed. R. Civ. P. 12(b) motion or other dispositive motion in lieu of an answer, the plaintiff shall consult with the parties and file this form on or before the deadline for filing a response to the Rule 12(b) motion. Only one document should be filed. While consent is voluntary, submission of this form indicating whether the parties consent to the Magistrate Judge's jurisdiction is mandatory.

**CONSENT TO PROCEED BEFORE A U.S. MAGISTRATE JUDGE
(To Be Completed Only If All Parties Consent)**

In accordance with Fed. R. Civ. P. 73, 28 U.S.C. § 636(c), and Local Rule 73.1(b)(2), the undersigned pro se party or counsel of record consent to have Magistrate Judge Johnstone conduct all further proceedings in this case, including trial, entry of judgment and any post-judgment proceedings, with any appeal going directly to the First Circuit Court of Appeals in the same manner as an appeal from any other judgment of this district.

| Party Represented | Signature of Counsel/Pro Se Party | Date |
|-------------------|-----------------------------------|------|
| | | |
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| | | |
| | | |

(Signatures may be in "/s/" format. See AP 2.7(b). Use additional forms if additional party represented spaces are needed)

~OR~

**REFUSAL TO CONSENT TO PROCEED BEFORE A U.S. MAGISTRATE JUDGE
(To Be Completed If Any Party Does Not Consent--Please DO NOT Identify Party)**

In accordance with Fed. R. Civ. P. 73, 28 U.S.C. § 636(c), and Local Rule 73.1(b)(2), the parties advise the court that at least one party does not consent to the Magistrate Judge's jurisdiction. The parties understand that the case will be randomly assigned to proceed before a U.S. District Judge and that pretrial matters may be referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b), Fed. R. Civ. P. 72, and Local Rule 72.1.

Date: **11/17/23**

Andre Bisasor

Filing Party (or their counsel)

You need not complete a certificate of service for any party served electronically using the court's CM/ECF system. If a document that is filed electronically must be conventionally served on any attorney or party, the certificate of service shall also state the date the document was filed with the court..

CERTIFICATE OF SERVICE

I hereby certify that this form was electronically filed in the court's electronic filing system and served on the following persons on this date and in the manner specified herein:

Electronically Served Through ECF:

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was or will be served to the parties in this case via the court's electronic filing/service system

Conventionally Served:

11/17/23

Date

andre bisasor

Signature